

July 31, 2019

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation, *Promoting Telehealth in Rural America*,
WC Docket No. 17-310

Dear Ms. Dortch:

I write pursuant to 47 CFR § 1.1204(a)(10) to provide notice that Arielle Roth, legal advisor to Commissioner O’Rielly, contacted me by phone today at 2:30 p.m. to seek clarification on certain of the issues raised in my July 30, 2019 *ex parte* notification.¹ Our discussion is summarized below.

First, as to the need for latency as a service specification, I clarified for Ms. Roth that the challenge here is that healthcare providers (“HCP”), in some cases, require low latency in order to run their applications. In these instances, they should be permitted to specify the need for low latency. For example, many Electronic Health Records systems are not latency-tolerant. A starker example would be when an HCP is trying to administer a real-time medical treatment or provide a psychiatric session over video. Any delay over ½ second causes a real impediment to the HCP’s ability to provide meaningful care. The challenge is the same when pixilation occurs.

In practical terms, when an HCP specifies low latency, the comparable service bucket used to determine the median should be limited to low latency. If an HCP can tolerate greater latency for some applications and not for others, the HCP should specify low latency for some and high latency for others. In this instance, the HCP would select the most cost-effective way of fulfilling both requirements. And, the comparable service bucket used to determine the median would still have to separate low latency from high latency.

¹ See Letter from Angela E. Giancarlo, Counsel to GCI Communication Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-310 (filed July 30, 2019) (“*Ex Parte* Notice”).

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Accordingly, our request that the Commission include latency as a service specification is not a competitive issue. Rather, our solution accounts for the importance of efficiently meeting an HCP's specific application requirements *and* resolves the practical need for maintaining an appropriate comparable price grouping.

Next, as to our proposal to further delineate the "Extremely Rural" categories, I clarified for Ms. Roth that our request that the Commission create a "satellite-only served" classification would not be addressed by adopting a latency service quality specification. A satellite-only sub-tier is necessary because the costs in satellite-only areas to provide and expand capacity are driven by the underlying satellite transponder costs. Transponders are purchased in relatively small increments and thus essentially have a per mbps cost structure. This is different from the costs for deploying and upgrading capacity on fiber and microwave networks. The underlying deployment, operations and capacity upgrades for each of these types of services are economically different, and thus would be expected to have different prices.

The problem with the failure to include a satellite-only sub-tier even when the database distinguishes between low- and high- latency services is illustrated by the following example:

The HCP in the satellite-only community specifies in Form 465 the desire to purchase, *e.g.*, a 10 Mbps circuit. Whether this is accomplished without specifying a latency or by specifying high latency, presumably USAC would determine the median rates by comparing all high latency circuits across the comparable geography (*e.g.*, an off-road sub-tier). Under this scenario, the rates used to determine the median will include high latency rates for fiber or microwave services in that broad sub-tier, even though microwave services are not available in the HCP's community. This result will distort the median price determination for any area in which only satellite is available such that the services would no longer reflect the costs of delivering the only service available—satellite.

Please contact me directly with any questions.

Sincerely,

/s/

Angela E. Giancarlo
Counsel to GCI Communication Corp.

cc: Arielle Roth
Preston Wise
Joseph Calascione
Will Adams
Travis Litman
Randy Clarke